

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DEBORA NOVAKOWSKI,

Plaintiff,

v.

ELAINE CHAO, SECRETARY, and the
UNITED STATES DEPARTMENT OF LABOR,

Defendants.

CIVIL DIVISION

NO. 04-356 ERIE

Judge McLaughlin
Electronically Filed

SUPPLEMENT TO PLAINTIFF'S MOTION TO COMPEL DISCOVERY

AND NOW, comes the Plaintiff, Debora Novakowski, by and through her counsel John R. Linkosky, Esquire and John Linkosky & Assoc., and files this Supplement to Plaintiff's Motion to Compel Discovery to complete the record and respond to Defendants' specific objections to providing complete responses to Plaintiff's discovery requests.

1. On December 28, 2005, Plaintiff filed a Motion to Compel Discovery as a result of Defendants' failure to respond to Plaintiff's Second Set of Interrogatories and Requests for Production of Documents.

2. Responses were due by December 9, 2005. No responses had been received as of December 28, 2005, and Plaintiff's Motion was filed pursuant to information provided by Defendants' counsel that Defendant would not respond or provide the documents requested pursuant to a claim that the discovery requested was not relevant.

3. On January 3, 2006, Plaintiff's counsel received Defendants' responses to Plaintiff's discovery.

4. Defendants' responses generally confirmed the previous information that Defendant would allege that the Discovery requested was not relevant and provided the specific reason that Plaintiff had testified that she was not adversely affected by the sexually hostile atmosphere created by male co-workers which was the subject of the investigation about which information was requested in Plaintiff's Discovery Requests.

5. Defendant also cited the Privacy Act as a reason for not divulging certain portions of the Discovery requested and alleged that the U.S. Department of Labor, Office of Inspector General is an independent agency within the Department of Labor. (Enclosed as Exhibit D is a copy of Defendants' Responses to Plaintiff's Second Discovery Request).

6. Defendants' response that Plaintiff admitted that she was not adversely affected by the sexually hostile atmosphere in the Erie Area Office of the Office of Safety and Health Administration does not address any claim made by Plaintiff. The Complaint clearly shows that Plaintiff has not made such a charge and Defendants' objection to providing answers to Plaintiff's Discovery in that regard is not relevant to an issue in the case.

7. Likewise, Defendants' citation of the Privacy Act as the basis for not providing the discovery is without merit. The privacy of any individual named in the material requested can be protected by a confidentiality agreement which has not been proposed by Defendants but which Plaintiff will sign.

8. Defendants' claim that the investigating agency is independent within the Department of Labor and the results of the investigation, which is the material requested in discovery requests, is not available to the Defendants is not accurate. Defendant Chao is the Secretary of Labor of the United States and all employees and activities of the U.S. Department

of Labor, including the Office of Inspector General, are subject to her supervision and their reports are within her custody and control.

9. Defendants' responses to Plaintiff's Second Discovery Requests do not provide a basis for Defendants denying to provide the responses and documents requested by Plaintiff and Defendant should be compelled to provide complete responses.

Respectfully submitted,

Date: 1/4/06

/s/ John R. Linkosky
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Supplement to Plaintiff's Motion to Compel was
electronically filed, on the 4th day of January, 2006, to the following:

Paul E. Skirtich, Esquire
Assistant U.S. Attorney
United States Department of Justice
U.S. Post Office & Courthouse
700 Grant Street, Suite 400
Pittsburgh, PA 15219

/s/ John R. Linkosky

John R. Linkosky, Esquire
Attorney for Plaintiff